

11-42-206. Adoption of a resolution or ordinance regarding a proposed assessment area -- Designation of an assessment area may not occur if adequate protests filed -- Recording of resolution or ordinance and notice of proposed assessment.

(1) (a) After holding a public hearing under Section 11-42-204 and considering protests filed under Section 11-42-203, and subject to Subsection (3), the governing body shall hold a public meeting to adopt a resolution or ordinance:

- (i) abandoning the proposal to designate an assessment area; or
- (ii) designating an assessment area as described in the notice under Section 11-42-202 or with the changes made as authorized under Subsection 11-42-204(4).

(b) In accordance with Section 11-42-203, the governing body:

- (i) may not schedule the public meeting before the expiration of the 60-day protest period; and
- (ii) shall consider and report on any timely filed protests.

(2) If the notice under Section 11-42-202 indicates that the proposed assessment area is a voluntary assessment area, the governing body shall:

- (a) delete from the proposed assessment area all property whose owners have not submitted an executed consent form consenting to inclusion of the owner's property in the proposed assessment area; and

- (b) determine whether to designate a voluntary assessment area, after considering:

- (i) the amount of the proposed assessment to be levied on the property within the voluntary assessment area; and

- (ii) the benefits that property within the voluntary assessment area will receive from improvements proposed to be financed by assessments on the property.

(3) If adequate protests have been filed, the governing body may not designate an assessment area as described in the notice under Section 11-42-202.

(4) (a) If the governing body adopts a designation resolution or ordinance designating an assessment area, the governing body shall, within 15 days after adopting the designation resolution or ordinance:

- (i) record the original or certified copy of the designation resolution or ordinance in the office of the recorder of the county in which property within the assessment area is located; and

- (ii) file with the recorder of the county in which property within the assessment area is located a notice of proposed assessment that:

- (A) states that the local entity has designated an assessment area; and

- (B) lists, by legal description and tax identification number, the property proposed to be assessed.

- (b) A governing body's failure to comply with the requirements of Subsection (4)(a) does not invalidate the designation of an assessment area.

(5) After the adoption of a designation resolution or ordinance under Subsection (1)(a), the local entity may begin providing the specified improvements.

Amended by Chapter 265, 2013 General Session